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# ***Public Utilities Commission of the State of California***

## ***Public Agenda 3094***

***Thursday, September 5, 2002 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Loretta M. Lynch, President**

**Geoffrey F. Brown**

**Henry M. Duque**

**Michael R. Peevey**

**Carl W. Wood**

*For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.*

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
Monday, September 16, 2002 (San Francisco)	Thursday, September 05, 2002 (San Francisco)
Monday, September 30, 2002 (San Francisco)	Thursday, September 19, 2002 (San Francisco)
Tuesday, October 22, 2002 (San Francisco)	Thursday, October 03, 2002 (San Francisco)
Monday, November 04, 2002 (San Francisco)	Thursday, October 24, 2002 (San Francisco)
	Thursday, November 07, 2002 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

### ***Matters of Public Interest***

***For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.***

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## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
- CA-7

Public Comment:

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

**CA-1                      Res TL-19011**

**888**                      Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

**CA-2                      Res ALJ-176-3094**

**903**                      Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

**CA-3                      A98-12-005 - GTE Corporation (GTE) and Bell Atlantic Corporation (Bell Atlantic).**

**93**                      GTE to transfer and Bell Atlantic to acquire control of GTE's California utility subsidiaries which will occur indirectly as a result of GTE's merger with Bell Atlantic. This decision concerns awards for substantial contributions to D00-03-021. The decision modifies D01-09-045 by adding response to comments on the ALJ's draft decision. This proceeding is closed. (Agenda 3073, Item CA-26, 10/10/01).

(Comr Duque - ALJ Kotz)

(Agenda 3080, Item CA-24 1/23/2002 (Wood); Agenda 3081, Item CA-19 2/7/2002;

Agenda 3090, Item H-2 6/27/2002 (Duque); Agenda 3091, Item H-3 7/17/2002; Agenda 3093, Item H-2 8/22/2002 (Duque))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129525](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129525)

**CA-4  
920****A00-11-038 - Southern California Edison Company (Edison).**

For authority to institute a Rate Stabilization Plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision awards Greenlining Institute and Latino Issues Forum \$221,709.81 in compensation for its contribution to D01-01-018 and D01-03-082.

(Comr Lynch - ALJ DeBerry)

(Agenda 3092, Item CA-34 8/8/2002 (Brown); Agenda 3093, Item CA-14 8/22/2002

(Duque))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128997](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128997)

**CA-5  
932****A02-05-023 - Southern California Edison Company (SCE).**

This decision grants SCE authority under Pub. Util. Code § 851 to enter into three master agreements and associated standard agreements and three stand-alone agreements that will lease excess space at communication facility sites and antenna equipment locations to Nextel of California, Inc. (Nextel).

Nextel will use the space to expand its wireless communications network. In D00-07-010, the Commission previously granted similar authority to SCE to lease these types of space to Pacific Bell Mobile Services. The application is unopposed and is granted. This proceeding is closed.

(Comr Brown - ALJ Walker)

(Agenda 3092, Item CA-40 8/8/2002 (Wood))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128894](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128894)

**CA-6  
939****A02-04-049 - Southern California Edison Company (SCE).**

This decision grants SCE authority under Pub. Util. Code § 851 to enter into four master agreements and associated standard agreements that will lease excess space at communication facility sites and antenna equipment locations to Sprint PCS Assets L.L.C. (Sprint PCS). Sprint PCS will use the

space to expand its wireless communications network. In D00-07-010, the Commission previously granted similar authority to SCE to lease this type of space to Pacific Bell Mobile Services. The application is unopposed and is granted. This proceeding is closed.

(Comr Brown - ALJ Walker)

(Agenda 3092, Item CA-42 8/8/2002 (Wood))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128905](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128905)

- CA-7  
949**      **I02-03-023 - Order Instituting Investigation of the Commission's own motion into the operations and practices of Ponderosa Sky Ranch Water Company and its owner and operator, Orville Figgs, and Order to Show Cause why findings should not be entered by the Commission under Public Utilities Code Section 855.**  
This decision directs the Commission's General Counsel to petition the Superior Court of Tehama County to appoint a receiver to assume possession of and operate the Ponderosa Sky Ranch Water Company, in accordance with Public Utilities Code Section 855.  
This proceeding is closed.  
(Comr Brown - ALJ McKenzie)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128605](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128605)
- CA-8  
990**      **A00-07-001 - Sierra Pacific Power Company (Sierra).**  
For approval of a proposed distribution performance-based ratemaking mechanism supported by a cost of service study. This decision grants The Utility Reform Network an award of \$20,934.88 in compensation for contributions to D01-12-005. This proceeding is closed.  
(Comr Peevey - ALJ Allen)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128674](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128674)
- CA-9  
996**      **A02-05-006 - National Comtel Network, Inc. (NCN) and Jeff L. Foss (Foss).**  
This decision grants the joint application of NCN and Foss for approval of the transfer of control of NCN to Foss. This proceeding is closed.  
(Comr Peevey - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=126996](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=126996)
- CA-10  
997**      **A02-05-044 - CallTower, Inc. (Applicant).**  
This decision grants the Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding is closed.  
(Comr Peevey - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127059](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127059)
- CA-11  
998**      **A02-06-011 - Talk Unlimited Now, Inc. (Applicant).**  
This decision grants the Applicant a certificate of public convenience and necessity to resell local exchange telecommunications services. This proceeding is closed.  
(Comr Peevey - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127043](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127043)
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- CA-12**  
**999**      **A02-06-015 - Blue & Gold Fleet, L.P. (Applicant).**  
This decision authorizes Applicant to increase a fare for its San Francisco—Tiburon service. This proceeding is closed.  
(Comr Peevey - ALJ Rosenthal)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128697](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128697)
- CA-13**  
**1001**      **A99-08-050 - Wickland Pipelines LLC.**  
Wickland Pipelines LLC seeks Commission approval of an environmental review, a new corporate membership structure, additional membership capital contributions, issuance of promissory notes, and authorization of market-based rates in connection with its operation of a jet fuel pipeline and tank farm project at Sacramento International Airport. The application is granted to the extent set forth. This proceeding is closed.  
(Comr Peevey - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128179](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128179)
- CA-14**  
**1002**      **A02-06-007 - Foresthill Telephone Co. (Foresthill) and Rose A. Hoeper (Hoeper).**  
Hoeper seeks authority to assume control of Foresthill following the death of her husband, Ralph E. Hoeper. The application is granted. This proceeding is closed.  
(Comr Peevey - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128262](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128262)
- CA-15**  
**1004**      **A02-06-012 - Blue & Gold Fleet , L.P. (Applicant).**  
This decision grants Applicant a fare increase for its Angel Island-San Francisco service.  
(Comr Peevey - ALJ Rosenthal)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128578](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128578)
- CA-16**  
**1005**      **A02-06-013 - Blue & Gold Fleet , L.P. (Applicant).**  
This decision grants Applicant a fare increase for its Alameda/Oakland to San Francisco and Angel Island State Park Service.  
(Comr Peevey - ALJ Rosenthal)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128586](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128586)

- CA-17  
1008**      **A02-06-033 - Del Oro Water Company, Inc. (Applicant).**  
This decision grants the Applicant's request to secure a loan in the amount of \$250,000 but denies without prejudice authority to apply monthly surcharges to repay the principal and interest of the loan. This proceeding is closed.  
(Exam Jackson)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127437](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127437)
- CA-18  
1032**      **A02-02-010 - Cogent Communications of California, Inc. (Cogent).**  
This interim decision grants the application of Cogent for a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding remains open to consider the applicant's proposed construction projects pursuant to the California Environmental Quality Act.  
(Comr Lynch - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=119849](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=119849)
- CA-19  
1038**      **A02-01-013 - Excel Telecommunications, Inc. (Applicant).**  
This decision grants the Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.  
(Comr Peevey - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129061](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129061)
- CA-20  
1041**      **A02-06-009 - William Singer dba Bill's Bus (Applicant).**  
This decision authorizes Applicant to operate an on-call passenger stage corporation between Isla Vista and Santa Barbara and between San Diego and Pacific Beach. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129258](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129258)
- CA-21  
1042**      **A02-04-012 - Sacramento Transportation Systems, Inc. (Applicant).**  
This decision authorizes Applicant to operate an on-call passenger stage corporation between Sacramento, Solano, Yolo, Placer, Sutter, Nevada, El Dorado, and San Joaquin Counties, on the one hand, and Sacramento International Airport, on the other hand and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129295](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129295)

- CA-22  
1043**      **A02-03-003 - City of Brentwood (City).**  
This decision authorizes the City to construct an at-grade crossing at the extension of Sand Creek Road over the track of the Union Pacific Railroad Company in Brentwood, Contra Costa County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127990](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127990)
- CA-23  
1044**      **A01-04-025 - San Francisco Bay Area Rapid Transit District (BART).**  
This proceeding grants the request of BART to construct a grade-separated crossing under the tracks of the Peninsula Corridor Joint Powers Board near Angus Avenue in Millbrae, San Mateo County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129369](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129369)
- CA-24  
1045**      **A02-02-013 - Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, the California Independent System Operator Corporation, and the ISO Restructuring Trust (ISO Trust).**  
This decision grants the wind-down and dissolution of the ISO Trust. This proceeding is closed.  
(Comr Lynch - ALJ Prestidge)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=120446](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=120446)
- CA-25  
1046**      **A02-06-054 - Kerman Telephone Co. (Kerman).**  
This decision authorizes Kerman to obtain financing from the Rural Utilities Service and the Rural Telephone Bank and to issue mortgage notes in the amount not exceeding \$6,936,700. This proceeding is closed.  
(Exam Jackson)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=126802](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=126802)

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## Regular Agenda

### Utility and Transportation Orders *Orders Held Over*

**H-1  
703                    R97-08-001 - Rulemaking on the Commission's own motion to consider adoption of rules applicable to interexchange carriers for the transfer of customers including establishing penalties for unauthorized transfer.**

I97-08-002 - Related matters. This decision modifies the hourly rates for attorneys Brown and Gnaizda, but denies the remainder of the Petition for Modification of D01-09-011 filed by Latino Issues Forum and Greenlining Institute on the grounds that the Commission is not persuaded to modify the decision.

(Comr Brown - ALJ Bushey)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3090, Item 4 6/27/2002 (Wood); Agenda 3091, Item H-8 7/17/2002; Agenda 3092, Item H-3 8/8/2002 (Brown); Agenda 3093, Item H-6 8/22/2002 (Wood))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=130092](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=130092)

**H-2  
714                    A98-02-017 - Pacific Bell (Pacific).**

For authority to categorize business inside wire repair, interexchange carrier directory assistance, operator assistance service and inmate call control service as Category III services. A98-04-048 - Related matters. This decision denies the Office of Ratepayer Advocates' petition for modification of D99-06-053 to recategorize Pacific's Residential Inside Wire Repair (RIWR) service option to Category II from Category III and to reset Pacific's RIWR wirepro ceiling rate to \$1.20 from \$2.99. These proceedings are closed.

(Comr Duque - ALJ Galvin)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3090, Item 7 6/27/2002 (Wood); Agenda 3092, Item H-4 8/8/2002 (Wood))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128740](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128740)

**H-3                    A98-07-003 - Pacific Gas and Electric Company (PG&E).****729**

For verification, consolidation and approval of costs and revenues in the Transition Revenue Account. In D99-06-058 the Commission ordered an audit of the Power Exchange energy credits (PX credits) of Southern California Edison Company, PG&E, and San Diego Gas & Electric Company. An audit was deemed necessary to insure that the PX credit on a direct access customer's bill was accurate. No termination date was set, but we provided for its eventual termination, should circumstances change. This decision grants the three utilities' petition to terminate the audit at the end of 2000. The PX credit ended when the PX suspended operations in January 2001. There is no purpose in continuing the audit. This proceeding is closed.

(Comr Wood - ALJ Barnett)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3091, Item 3 7/17/2002; Agenda 3093, Item H-9 8/22/2002 (Duque))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129650](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129650)

**H-4                    A01-06-003 - Pacific Gas and Electric Company (PG&E).****864**

Application in the 2000/2001 revenue adjustment proceeding. PG&E's revenue adjustment proceeding for July 1999-2002 disallows \$33,166 in special contract costs; eliminates one balancing and 11 memorandum accounts; and verifies undisputed entries in the Transition Revenue Account and other specialized accounts. This proceeding is closed.

(Comr Brown - ALJ Sullivan)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3092, Item 5 8/8/2002 (Lynch))

**H-5                    A96-10-038 - Pacific Enterprises, Enova Corporation, Mineral Energy Company, B Mineral Energy Sub and G Mineral Energy Sub.****890**

For approval of a Plan of Merger of Pacific Enterprises and Enova Corporation with and into B Energy Sub ("Newco Pacific Sub") and G Energy Sub ("Newco Enova Sub"), the wholly-owned subsidiaries of a newly created holding company, Mineral Energy Company. In D98-03-073, the Commission approved the merger of San Diego Gas & Electric Company and Southern California Gas Company, subject to certain conditions. One of those conditions was that an independent firm should be hired to audit and ensure compliance with applicable safeguards. Larkin & Associates performed the Audit and submitted its report. The report finds that the merged companies complied with the applicable Safeguards but that some changes in the merger conditions are needed. This decision approves the Larkin report and most of its recommendations. Some recommendations are not approved. This proceeding is closed.

(Comr Duque - ALJ Barnett)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3093, Item 1 8/22/2002 (Peevey))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129835](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129835)

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**Orders****1  
943      P02-02-003 - Pacific Gas and Electric Company, Southern California Edison Company and California-American Water Company.**

This decision denies the Petition for a rulemaking into General Order 69-C, which governs limited, revocable uses of utility property by third parties. Decision concludes that a rulemaking will not yield the fact-specific guidance sought. This proceeding is closed.

(Comr Lynch - ALJ Veith)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127927](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127927)

**2  
954      R98-07-037 - Order Instituting Rulemaking on the Commission's proposed policies and programs governing energy efficiency, low-income assistance, renewable energy and research development and demonstration.**

This decision addresses issues regarding the eligibility of renewable-fuel combustion turbines (e.g., micro-turbines) for self-generation program incentives under this program. The Commission also addresses Capstone Turbine Corporation's Petition For Modification of D01-03-073, filed on March 5, 2002.

(Comr Lynch - ALJ Gottstein)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128629](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128629)

**3  
956      A01-09-045 - Lodi Gas Storage, L.L.C. (LGS), Western Hub Properties L.L.C. (Western Hub), and WHP Acquisition Company, LLC (WHP).**

This decision approves, subject to conditions: the unopposed request for the sale of Western Hub to WHP and the resulting indirect change of control of LGS and its Lodi gas storage facility; authority to enter into a secured, long-term bank financing agreement; and contracts for the management of continuing construction at the Lodi facility and for management of the day-to-day operations of LGS. The change of control will not affect the rates, terms or conditions under which LGS is to operate pursuant to previous Commission decisions and qualifies for an exemption from the California Environmental Quality Act. The conditions of approval require the disclosure of specific contracts and other documents to the Director of the Commission's Energy Division. This proceeding is closed.

(Comr Lynch - ALJ Veith)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128628](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128628)

**3a ALTERNATE TO ITEM 956**

**964** The alternate decision differs from the draft decision in two substantial ways: (1) it imposes the 1997 Affiliate Transaction Rules and (2) denies Joint Applicants' requested use of an affiliate for day-to-day facility management.

(Comr Lynch)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129108](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129108)

**3b ALTERNATE TO ITEM 956**

**989** This alternate approves the unopposed request of Joint Applicants Lodi Gas Storage (LGS), LLC, Western Hub Properties, LLC, and WHP Acquisition Company, LLC, for a change in the ultimate ownership of LGS and its Lodi gas storage facility and for authority to enter into a secured, long-term bank financing agreement. The approval of this application is subject to certain conditions which differ in this alternate from those in the draft decision.

(Comr Peevey)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=130598](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=130598)

**4 R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell and Verizon California Incorporated (Verizon).**

**957**

I01-09-002 - Related matters. This interim decision addresses the Office of Ratepayer Advocate's (ORA) audit of Verizon. The decision adopts the parties' settlement of most of the audit issues, with certain conditions. With respect to the main issue that was not settled, the decision finds that all of the earnings from Verizon's telephone directory affiliate should be reflected in the regulated earnings of Verizon. The decision declines to adopt ORA's recommendation to reduce Verizon's rates by \$104 million in response to misallocated costs and revenues that were discovered by ORA's audit. The decision orders a separate phase of this proceeding to determine whether Verizon has violated any rules of the Commission and whether penalties are warranted. The decision also expands the scope of Phase 3 of this proceeding to include the issue of whether Verizon's earnings are excessive and whether any portion of those earnings accrued after the date of the decision should be refunded to ratepayers. To avoid the potential for irreparable harm to ratepayers pending the Commission's consideration of this issue, Verizon's earnings are made subject to refund, effective immediately.

(Comr Lynch - ALJ Kenney)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=128676](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=128676)

**5 A02-04-031 - Pacific Gas and Electric Company (PG&E).****988**

For ex parte approval of the 2002 California Alternate Rates For Energy (CARE) budget. A02-04-034, A02-04-035, A02-04-036 - Related matters. This decision adopts a 2002 CARE program budget for PG&E, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company that ensures the continuation of rapid deployment efforts adopted in D01-05-033 through the rest of the year. It also implements balancing account ratemaking treatment and establishes reasonableness review procedures consistent with the provisions of SBX2 2. For PY2002, these procedures will include an audit by Energy Division of the utilities' CARE administrative expenditures to ensure that they are incremental to the program and to improve the manner with which the utilities record and report administrative costs in the future. (Comr Wood - ALJ Gottstein)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129002](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129002)

**6 A02-06-021 - San Diego Gas & Electric Company (Applicant).****1033**

This decision grants the Applicant's request for authority to issue short-term obligations in the aggregate principle amount up to \$200,000,000 in addition to the amount of notes payable at periods of not more than 12 months authorized without Commission approval by Pub. Util. Code Section 823(c). This proceeding is closed.

(Exam Clanon)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=127413](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=127413)

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**Utilities Resolutions and Written Reports****Energy Matters****E-1                    Res E-3697 - Southern California Edison Company (Edison).****904**

Edison requests authorization to continue offering its Telephone Solicitation Service for Newspapers and to establish a new non-tariffed product and service category entitled Newspaper Solicitation Service. In addition, Edison requests that the Newspaper Solicitation Service be considered "active" for purposes of its gross revenue sharing mechanism. Lastly, Edison requests a limited waiver of Rule IV.A, Customer Consent, of the Affiliate Transaction Rules. This resolution approves Edison's requests with modifications. (Advice Letter 1436-E filed February 22, 2000).

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3093, Item E-3 8/22/2002 (Wood))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=129771](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129771)

**E-2                    Res E-3784 - Southern California Edison Company (SCE).****945**

This resolution approves, with modifications, SCE's request for approval of its revised revenue requirement for Utility Retained Generation pursuant to D02-04-016 and identified adjustments to the Procurement Related Obligations Account and Settlement Rates Balancing Account consistent with D02-04-016. (Advice Letter 1616-E filed April 24, 2002).

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## Rail Safety and Carrier Division Reports and Resolutions

**T-1**

**SX-49**

**791**

This resolution authorizes the deviation from General Order No. 75-C, Section 7.8, allowing the Union Pacific Railroad Company to retain the use of 20-inch backgrounds installed on its railroad crossing warning devices currently in operation.

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

(Agenda 3091, Item T-2 7/17/2002; Agenda 3092, Item T-2 8/8/2002; Agenda 3093, Item T-2 8/22/2002 (Clark))

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=126964](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=126964)

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## **Commissioner's Reports**

### **CR-1                      Commissioners' Reports**

**1023**                      Miscellaneous Commissioners' Reports.

### **CR-2                      Commissioner Brown and Commissioner Peevey Report**

**935**                      Commission Policies and Guidelines pursuant to Public Utilities Code Section 305, including: Public Agenda, decision document notation, access to and distribution of documents and reports.  
(Agenda 3092, Item CR-2 8/8/2002 (Brown); Agenda 3093, Item CR-2 8/22/2002 (Lynch))

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## **Management Reports and Resolutions**

### **M-1                    Management Reports**

**1024**                    Miscellaneous Management Reports.

### **M-2                    General Counsel's Report**

**1040**                    Possible Addendum/Changes to Summary of Material Terms for Department of Water Resources' bond transaction.

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal Items

#### Orders Held Over

#### HEX-1

##### **C99-01-039 - Conference with Legal Counsel-Application for Rehearing**

**172**

Disposition of the Application for Rehearing filed by Greenlining Institute and Latino Issues Forum of D01-04-037, which denied a complaint regarding tariffing and billing for commercial customers for voicemail services.

(Agenda 3067, Item EX-7, 7/12/01; Agenda 3073, Item HEX-1, 10/10/01)

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*

(Agenda 3087, Item HEX-1 5/2/2002; Agenda 3088, Item HEX-1 5/16/2002; Agenda 3089, Item HEX-1 6/6/2002; Agenda 3090, Item HEX-1 6/27/2002 (Lynch); Agenda 3091, Item HEX-1 7/17/2002; Agenda 3093, Item HEX-1 8/22/2002 (Lynch))

#### HEX-2

##### **A00-11-038 - Conference with Legal Counsel – Application for Rehearing.**

**905**

A00-11-056, A00-10-028 - Related matters. Disposition of application for rehearing of D02-03-058 filed by Pacific Gas and Electric Company (PG&E). In D02-03-058, the Commission determined that certain "Disputed ISO Charges," which had been paid by California Department of Water Resources (DWR), were properly part of PG&E and Southern California Edison Company's (Edison) utility retained generation revenue requirements. Thus, D02-03-058 ordered PG&E and Edison to reimburse DWR for these charges.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*

(Agenda 3093, Item EX-5 8/22/2002 (Cohen))

**HEX-3  
917****A00-10-012 - Conference with Legal Counsel - Application for Rehearing.**

A01-06-011, A00-11-050, A00-11-040, A00-11-034, A00-11-033, A00-11-032, A00-11-029, A00-11-016, A00-11-015, A00-10-050, A00-10-039, A00-10-033, A00-10-020 - Related matters. Order disposing of applications for rehearing of D02-05-047 filed by Citizens Against the Blue Line At-Grade and Mt. Washington Association. D02-05-047 approved applications of the Los Angeles to Pasadena Metro Blue Line Construction Authority to construct at-grade crossings for the proposed light rail service between the Union Station in Los Angeles and Sierra Madre Boulevard in Pasadena.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
(Agenda 3092, Item EX-8 8/8/2002; Agenda 3093, Item HEX-6 8/22/2002 (Wood))

**HEX-4  
931****A01-07-006 - Conference with Legal Counsel - Application for Rehearing.**

Disposition of application for rehearing of D02-04-005 filed by Pacific Gas and Electric Company (PG&E). D02-04-005 approved the sale by PG&E of 4.09 acres of land to the City and County of San Francisco. As explained in D02-04-005, the sale is in the public interest because it would allow PG&E to eliminate the costs of ownership while retaining ability to maintain electrical lines passing through the property. At the same time, a rulemaking should be instituted to address the allocation of the net proceeds of this transaction between ratepayers and shareholders.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
(Agenda 3092, Item EX-10 8/8/2002; Agenda 3093, Item HEX-8 8/22/2002 (Cohen))

**HEX-5  
955****C99-10-037 - Conference with Legal Counsel - Application for Rehearing.**

Disposition of Application for Rehearing of D02-04-051 filed by Southern California Edison Company (Edison). In D02-04-051, the Commission granted the Complainant County Sanitation District No. 2 of Los Angeles County's motion for summary judgment as to the 3rd cause of action of its complaint against Edison. The third cause of action alleged a violation of Edison's Tariff Rule 12.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
(Agenda 3093, Item EX-6 8/22/2002 (Duque))

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**Orders****EX-1                      Conference with Legal Counsel – Applications for Rehearing****1025**

Compilation of applications for rehearing recently filed with the Commission.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session***EX-2                      Conference with Legal Counsel – Threatened Litigation****1026**

Significant exposure to litigation.

*Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session***EX-3                      Conference with Legal Counsel – Initiation of Litigation****1027**

Consideration of possible Commission initiation of, or intervention in, litigation.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session***EX-4                      Personnel Matters****1030**

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.

*Gov. Code § 11126(a), allows this item to be considered in Closed Session***EX-5                      Conference with Legal Counsel – Initiation of Enforcement Proceeding****1022**

Deliberation on institution of proceeding or disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced and disclosure could also jeopardize the ability to effect personal service on the Respondent.)

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session***EX-6                      Conference with Legal Counsel – Initiation of Enforcement Proceeding****1028**

Deliberation on institution of proceeding or disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session*

**Federal Items****Items****FEX-1                      Conference with Legal Counsel – Initiation of Litigation**

**1031**                      Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session*

**FEX-2                      Case No. 01 30923 DM - Conference with Legal Counsel - Existing Litigation.**

**1034**                      Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.

*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session*